

Attorney Docket No.: 01CON346P
Serial No.: 09/761,033

REMARKS

This is in response to the *Non-Final* Office Action, dated April 29, 2005, where the Examiner has rejected claims 28-29, 31-35, 38-39, 41-45. By the present amendment, claims 28, 33, 38 and 43 have been amended. After the present amendment, claims 28-29, 31-35, 38-39, 41-45 remain pending in the present application. Reconsideration and allowance of pending claims 28-29, 31-35, 38-39, 41-45 in view of the following remarks are respectfully requested.

A. Rejection of Claims 28-29 and 38-39 under 35 U.S.C. § 102(b)

The Examiner has rejected claims 28-29 and 38-39, under 35 U.S.C. § 102(b), as being anticipated by Swaminathan (USPN 5,495,555) ("Swaminathan").

Applicant respectfully disagrees. However, in order to expedite the prosecution of the present application, applicant has amended independent claims 28 and 38 to recite "wherein said current excitation signal is constructed using an excitation pattern that accounts for a long term correlation in which a true pitch lag is shorter than a subframe size, while detected pitch lag is substantially greater than the true pitch lag." Applicant respectfully submits that this amendment finds support in the present application at, e.g. page 9, line 28 through page 10, line 13. Applicant respectfully submits that Swaminathan fails to disclose, teach or suggest such limitation.

Further, claims 29 and 39 depend from claims 28 and 38, respectively, and should be allowed at least for the same reasons claims 28 and 38, as amended, are patentably distinguishable over Swaminathan.

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B. Rejection of Claims 28-29, 31-32, 34, 38-39, 41-42 and 44 under 35 U.S.C. § 102(e)

The Examiner has rejected claims 28-29, 31-32, 34, 38-39, 41-42 and 44, under 35 U.S.C. § 102(e), as being anticipated by Thyssen (USPN 6,813,602) ("Thyssen"). Applicant respectfully disagrees.

Applicant respectfully submits that Thyssen is not a prior art reference based on inventor's declaration filed in response to the previous office action, which establishes that the Innovation Disclosure corresponding to the present application was entered into the Rockwell Semiconductor Systems, Inc. Disclosure Database, on September 1, 1998 at 10:48:38 AM, which predates the filing date of Thyssen Patent No. 6,480,822, i.e. September 18, 1999, which is the parent application of Thyssen 6,813,602.

Applicant further notes that Provisional Application Serial No. 60/097,569, filed on August 24, 1998, is not a prior art reference, because the inventor of the present application, i.e. Yang Gao, is also a named inventor of Provisional Application Serial No. 60/097,569, filed on August 24, 1998.

Accordingly, applicant respectfully requests that the rejection of claims 28-29, 31-32, 34, 38-39, 41-42 and 44, as being anticipated by Thyssen under 35 U.S.C. § 102(e) be withdrawn.

C. Rejection of Claims 31, 33-35, 41 and 43-45 under 35 U.S.C. § 103(a)

The Examiner has rejected claims 31, 33-35, 41 and 43-45 under 35 U.S.C. § 103(a), as being unpatentable over Swaminathan in view of Akamine, et al. (USPN 5,265,167) ("Akamine"). Applicant respectfully disagrees.

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Applicant respectfully submits that claims 31, 33-35, 41 and 43-45 depend from claims 28 and 38, respectively, and should be allowed at least for the same reasons claims 28 and 38, as amended, are patentably distinguishable over Swaminathan.

Furthermore, for example, in rejecting claim 33, the Examiner summarily dismisses the limitation $P(n) = C \sum_i G_i \cdot \delta(n - Ti) + \delta(n)$, as being a well-known and obvious variation of equation 37 in Akamine, without explaining how equation 37 of Akamine discloses, teaches or suggests $P(n) = C \sum_i G_i \cdot \delta(n - Ti) + \delta(n)$. As explained in the present application, $P(n)$ accounts for a long term correlation in which a true pitch lag is shorter than a subframe size, while detected pitch lag is substantially greater than the true pitch. However, the Examiner has not established that equation 37 of Akamine accounts for a long term correlation in which a true pitch lag is shorter than a subframe size, while detected pitch lag is substantially greater than the true pitch.

D. Rejection of Claims 32 and 42 under 35 U.S.C. § 103(a)

The Examiner has rejected claims 32 and 42 under 35 U.S.C. § 103(a), as being unpatentable over Swaminathan in view of Akamine, in further view of McDonough, et al. (USPN 5,926,786) ("McDonough").

Applicant respectfully submits that claims 32 and 42 depend from claims 28 and 38, respectively, and should be allowed at least for the same reasons claims 28 and 38, as amended, are patentably distinguishable over Swaminathan.

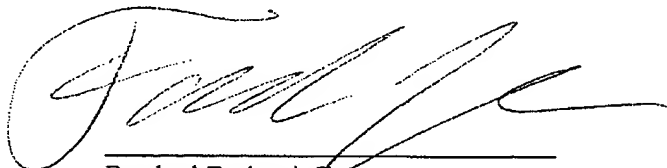
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E. Conclusion

For all the foregoing reasons, an early allowance of claims 28-29, 31-35, 38-39, 41-45 pending in the present application is respectfully requested. The Examiner is invited to contact the undersigned for any questions.

Respectfully Submitted;
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